

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

Application 14381 Permit 8796 License 5403

**ORDER APPROVING CORRECTION TO DESCRIPTION OF SOURCE,
POINT OF DIVERSION, PLACE OF USE AND
ADDING MAXIMUM ANNUAL AMOUNT, ADDING ENDANGERED OR
THREATENED SPECIES TERM, AND AMENDING THE LICENSE**

WHEREAS:

1. License 5403 was issued to Joseph Bochenek on January 14, 1959 pursuant to Application 14381, and was recorded with the County Recorder of Yolo on January 15, 1959.
2. License 5403 was subsequently assigned to Laguens Clarksburg Vineyards on April 14, 1999.
3. A correction to change the description of the source, point of diversion, place of use and adding maximum annual amount was determined by the State Water Resources Control Board on May 20, 1999.
4. The State Water Resources Control Board has determined that the correction to change the descriptions for the source, point of diversion, place of use and maximum annual amount do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.
6. The license term relating to the continuing authority of the SWRCB should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.
7. The license term relating to the water quality objectives of the SWRCB should updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description of the point of diversion be corrected to read:
Elk Slough tributary to Sacramento River Delta Channels.
2. The description of the point of diversion be corrected to read:
South 1,350 feet and West 2,600 feet from the NE corner of projected Section 16, T6N, R4E, MDB&M, within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 16; also described by the California Coordinate System, Zone 2, North 258,300 and East 2,130,350.
3. The quantity of maximum annual use be added as follows:
The maximum annual amount diverted for irrigation under this license shall not exceed 237 acre-feet per year.
4. The description of the place of use be corrected to read:
8.6 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
0.3 acre within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
0.2 acre within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
4.4 acres within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
2.5 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
33.2 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
0.5 acre within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
25.0 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
20.7 acres within SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 16, T6N, R4E, MDB&M,
95.4 acres total, as shown on a map dated May 26, 1999 on file with the SWRCB and identified by the County Assessor under APN# 43-090-22.
5. The continuing authority condition, shall be updated to read as follows:
Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to:
(1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to

eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

6. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

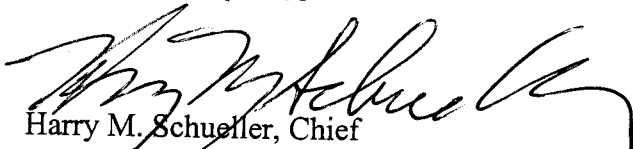
(0000013)

7. License 5403 is amended to include the following Endangered Species condition:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain an incidental take permit prior to construction or operation. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

Dated: **OCT 27 1999**


Harry M. Schueller, Chief
Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 14381

PERMIT 8796

LICENSE 929

THIS IS TO CERTIFY, That

Joseph Bochenek
2425 - 26th Street
Sacramento, California

Notice of Assignment (Over)

has made proof as of June 13, 1958

(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of Elkhorn Slough in Yolo County

tributary to Sacramento River

for the purpose of irrigation use
under Permit 8796 of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from July 3, 1951; and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed one and three tenths (1.3) cubic feet per second to be diverted from about May 1 to about August 1 of each year.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located:

Due north one thousand six hundred thirty-four (1634) feet from SW corner of Section 9, T6N, R4E, MDB&M, being within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 9.

A description of the lands or the place where such water is put to beneficial use is as follows:

5 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 8, T6N, R4E, MDB&M
30 acres within SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 8, T6N, R4E, MDB&M
1 acre within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 8, T6N, R4E, MDB&M
8 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 9, T6N, R4E, MDB&M
20 acres within NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 9, T6N, R4E, MDB&M
20 acres within SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 9, T6N, R4E, MDB&M
20 acres within SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 9, T6N, R4E, MDB&M
104 acres total

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

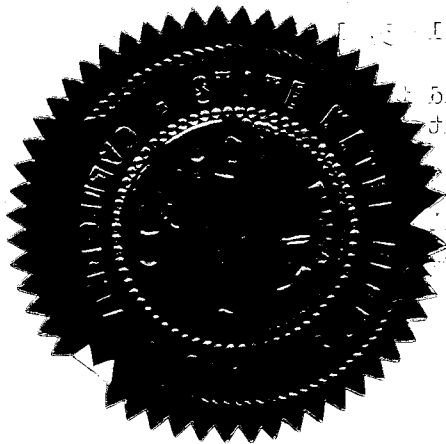
Dated: JAN 14 '59

L. K. Hill
L. K. Hill
Executive Officer

3/19/59

RECEIVED NOTICE OF ASSIGNMENT TO

Perry J. Cook



LICENSE 222

STATE OF CALIFORNIA

STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO Joseph Bochenek

JAN 14 '59

DATED

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